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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,760	05/31/2001	Sean M. McCullough	VIGN1260-1	6413
25094	7590	06/28/2004	EXAMINER	
GRAY, CARY, WARE & FREIDENRICH LLP 1221 SOUTH MOPAC EXPRESSWAY SUITE 400 AUSTIN, TX 78746-6875			PATEL, ASHOKKUMAR B	
		ART UNIT		PAPER NUMBER
		2154		5
DATE MAILED: 06/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/681,760	MCCULLOUGH, SEAN M.	
	Examiner	Art Unit	
	Ashok B. Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on April 28, 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-18 are subject to examination.

Response to Arguments

2. Applicant's arguments filed April 28, 2004 have been fully considered but they are not persuasive for the following reasons: The reference Davis teaches the first and second data is determined at a location remote from the user by stating that "The database thus constructed can be indexed by resource identity and may contain information about users who have visited the Web page, such as their network and client IDs, how often they visited the Web page, how long the Web page was displayed, and so on. Additionally, if the above-mentioned tracking mechanism is implemented across various Web pages in a particular Web site, the database thus constructed may contain similar information about the different Web pages in the Web site. Similarly, the information acquired by the tracking program may be combined with a process for monitoring the number of times the Web resource has been accessed. An analysis of the data on a resource-indexed basis would facilitate the determination of individual user interests and the like. On the other hand, analysis of the data on a resource-indexed basis would allow the determination of, for example, which Web pages are viewed the longest and/or most often either by users in general, or by specific users. Thus, it would be possible to determine if there were different types of users that preferred different sections of the Web site (because, for example, they spent more time browsing different sections of the Web site). Additionally, if the above-mentioned tracking program is attached to an ad banner that is embedded in

multiple Web pages across different Web sites (as is typically the case with ad banners), the database thus constructed may contain information about how often and for how long the different pages that contained the ad banner were displayed, as well as more specific information about users that visited those pages. With this information, advertisers could determine the accuracy of data supplied to them by Web site administrators about the number of times their ad banner was displayed, as well as learn how long the Web page containing the ad banner was displayed--a number that would be of great use in determining the effectiveness of their advertising. "(col. 12, lines 51-67 and col. 13, lines 1-17). This database (Fig.4, element S404) is located at the server A of Fig.4, which is at a location remote from user. Thus, the reference teaches that data is determined at a location remote from the user.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 8-12,17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. (hereinafter Davis)(US 5,796, 952).

Referring to claims 1, 2 and 3,

The reference Davis teaches a tracking program for creating a database (tables) for user profiles. (col.4, lines 19-23). It also teaches that the database can contain client Ids (first identifier for the user), Network Ids (network addresses accessed by the user), and the time spent by the users interfacing with and using particular resources and details of choices created by the users within a particular resource (temporal information related to the user identifier and the network addresses). (col.4, lines 24-33). It also teaches that the tracking program can be implemented for gathering the information to be included in the database about different websites (data including network addresses and corresponding category information) (col. 13, lines 5-18). It also teaches that this information can be included in two distinct databases, one database (second data) which is indexable by resource identity including URL of the web document and resources (data including network addresses and corresponding category information)(col.15, lines 59-67 and col.16 lines 1-4), and a second database (first data) which is indexable by individual clients (col. 16, lines 5-8). It further teaches that these two databases can be combined to a single database indexable by client or resource identity (network addresses). (col.16, lines 7-9). The reference also teaches that the data is determined at a location remote from the user (col. 12, lines 51-67 and col. 13, lines 1-17). The reference fails to teach to generate a user profile by associating the user with a first profile and in the orders of the columns (creating a table that includes a first column for user identifiers including the first identifier, a second column for the corresponding category information and a third column for the at least some of the temporal

information) as claimed, comparing the data for the user within the database (table) to existing profiles, and matching the network addresses that are common to the first and second data. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to manipulate the information in the databases (existing profiles) by comparing the data within the table (database), associating the user with a profile and matching (the network addresses) to generate a user profile table (database) that includes a first column for user identifiers including the first identifier, a second column for the corresponding category information and a third column for the at least some of the temporal information such that the database can be queried to permit the server to assemble a web page or target an ad banner based upon the diverse interests of the users as taught by Davis.

Referring to claim 8,

The reference Davis fails to teach selling the user profile. However, it teaches that user profile is a valuable tool for advertisers and marketers to determine the effectiveness and value of network-based advertisement and marketing resources. (col. 4, lines 19-23). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to sell the user profile and generate the income.

Referring to claim 9,

The reference teaches that the tracking program (the program for creating a database (tables) for user profiles, can use multiple databases to store and process the information (col.17, lines 59-62). It also teaches that the database

can reside on a separate machine (third-party source). (col.17, line66-67 and col.18, line 1-8). Although the reference teaches, in case of creating multiple databases for the user profile, that a database (second data) can include information such as URL of the web document (col. 15, lines 60-66), the reference fails to teach the corresponding category information including meta tags for the network addresses. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to add meta tags for the network addresses such that the web sites in accordance with the user profile can be linked and presented to the user.

Referring to claims 10, 11, and 12,

Claims 10, 11 and 12 are claims to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claims 1, 2 and 3. Therefore, claims 10, 11, and 12 are rejected for the reasons set forth in above paragraph for claims 1, 2 and 3.

Referring to claim 17,

Claim 17 is claim to a data processing system readable medium having code embodied to perform methods of claim 8. Therefore, claim 17 is rejected for the reasons set forth in above paragraph for claim 8.

Referring to claim 18,

Claim 18 is claim to a data processing system readable medium having code embodied to perform methods of claim 9. Therefore, claim 18 is rejected for the reasons set forth in above paragraph for claim 9.

5. Claims 4-7 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. (hereinafter Davis)(US 5,796, 952) in view of Thomas (US 6,128,663).

Referring to claims 4, 5,6 and 7,

The reference Davis teaches the user profile permitting the server (network access provider) to assemble a web page or target an ad banner based upon the diverse interests of user (selecting a first marketing information regarding an item where in selecting is based at least in part on the user profile; and sending the first marketing information to the user, selecting is performed by a network access provider; and the first marketing information includes a banner advertisement that is to be displayed near a periphery of a view) (col.13, lines 57-67). The reference Davis also teaches that the ad banner can include multiple links to other diverse web sites and means by to order or purchase goods and services. (col. 13, lines 63-67 and col.14, lines 1-46) (at least one of the network addresses corresponds to a network site is owned or controlled by a company that sells the item; and the first marketing information comprises an offer to sell the item.)The reference Davis fails to teach applying the filter before sending the first marketing information. The reference Thomas teaches to apply filter by selecting one of a plurality of available image files (second marketing information and more) for the identified advertisement banner. (col.2, lines 51-63) (selecting comprises selecting the first marketing information and second marketing

information; and the method further comprises applying a filter, wherein: the second marketing information is filtered out and the first marketing information passes; and applying the filter is performed before sending.) Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to combine Davis with Thomas. Because the user profile is a valuable tool for advertisers and marketers to determine the effectiveness and value of network-based advertisement and marketing resources as taught by Davis.

Referring to claims 13, 14, 15, and 16,

Claims 13, 14, 15 and 16 are claims to a data processing system readable medium having code embodied to perform methods of claims 4, 5, 6, and 7. Therefore, claims 13, 14, 15 and 16 are rejected for the reasons set forth in above paragraph for claims 4, 5, 6, and 7.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (703) 305-2655. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp.



ZARNI MAUNG
PRIMARY EXAMINER